Remarks/Arguments:

Applicant wishes to thank the examiner for providing the initialed Form PTO 1449 with the final Office Action, as requested in his previously filed amendment.

Claims 11-13, and 18-26 are pending, with claims 11, 12, and 21-26 being withdrawn from consideration, pursuant to restriction.

Claims 1-10, 14-17, and 27, 31 are cancelled, without prejudice or disclaimer.

Entry of the aforesaid amendments to the claims after final rejection is appropriate, in the present case. That is, the aforesaid amendments place the pending, examined claims in form for immediate allowance—or reduced the issues on appeal—and entry, thereof, would require no further search and no (or very little) further consideration by the examiner.

Present claims 13 and 18-20 (the remaining, active claims), as currently amended, are limited to subject matter apparently found by the examiner to satisfy the requirements for enablement under §112, ¶1, as further explained below, in addressing the enablement rejection, set forth in the final Office Action.

Claims 13-15, 17-20, 30, and 31 were rejected under 35 USC 112, first paragraph, as allegedly lacking enablement. Reconsideration is requested in view of the amendments to the claims effected, hereby, in conjunction with the following remarks.

According to the statement of rejection (Office Action, page 3),

> the instant claimed methods are only enabled for diagnosing Alzheimer's disease by determining the ratio levels of transcriptional product of the gene encoding for polypeptide of SEQ ID NO: 1 in samples of brain tissue obtained from the following areas of the brain: temporal cortex, frontal cortex and/or hippocampus, and

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comparing these levels to the corresponding referenced ratio levels, wherein the specific results of this comparison as disclosed in the specification stand for diagnosis of AD.

As amended, hereby, applicant considers that the present claims are limited to "only [the subject matter] enabled" according to the statement of rejection.

Accordingly, claim 13 (as amended) now reads:

A method for diagnosing Alzheimer's disease in a subject comprising

- determining a ratio level of a transcription product of the gene coding for polypeptide hTARPP (SEQ ID NO: 1) in a brain tissue sample of temporal cortex, frontal cortex, and/or hippocampus obtained from said subject and
- comparing said ratio level to a reference value representing a known disease or health status, thereby diagnosing Alzheimer's disease in said subject.

Claim 18 (as amended) now reads:

The method according to claim 13 wherein said reference value representing a known health status is that of a ratio level of a transcription product of the gene coding for polypeptide hTARPP (SEQ ID NO: 1) in a brain tissue sample of temporal cortex, frontal cortex, and/or hippocampus obtained from a subject not suffering from Alzheimer's disease.

Claim 19 (as amended) now reads:

The method according to claim 13 wherein an alteration in the ratio level of a transcription product of the gene coding for polypeptide hTARPP (SEQ ID NO: 1) in a brain tissue sample of temporal cortex, frontal cortex, and/or hippocampus obtained from said subject relative to a reference value representing a known health status indicates a diagnosis of Alzheimer's disease in said subject.

Claim 20 (as amended) now reads:

A kit for diagnosing Alzheimer's disease in a subject, said kit comprising:

a) at least one reagent which is selected from the group consisting of reagents that selectively detect a transcription product of the gene coding for polypeptide hTARPP (SEQ ID NO: 1) and

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b) an instruction for diagnosing Alzheimer's disease by
   - detecting a ratio level of said transcription product of the gene coding for polypeptide hTARPP (SEQ ID NO: 1) in a brain tissue sample of temporal cortex, frontal cortex, and/or hippocampus obtained from said subject and
   - diagnosing Alzheimer's disease (i) when a ratio level of said transcription product is varied compared to a reference value representing a known health status or (ii) when a ratio level of said transcription product is similar or equal to a reference value representing a known disease status.

For the foregoing reasons, the rejection under §112, ¶1, for alleged lack of enablement is overcome. Withdrawal of the rejection appears to be in order.

Claims 13-15, 17-20, 30, and 31 were rejected under 35 USC 112, second paragraph, as allegedly being indefinite. Reconsideration is requested in view of the changes to the claims effected, hereby, taken in conjunction with the following remarks.

According to the statement of rejection (Office Action, page 5), the recited "activity" in the rejected claims, and the recited "comprising cerebrospinal fluid or blood" in rejected claim 30, render the claims indefinite. Since "activity" is not recited in any of the present claims (as amended) and rejected claim 30 is cancelled, hereby, the allegedly indefinite language is no longer recited in the claims, rendering moot the reasoning set forth in support of the rejection.

For the foregoing reasons, the rejection of claims under §112, ¶2, for allegedly being indefinite is overcome. Withdrawal of the rejection appears to be in order.

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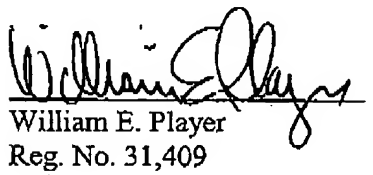
Attorney Docket No. P67772US1
Application No. 10/509,950

Favorable action is requested.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By 
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